

THE HONORABLE DAVID G. ESTUDILLO

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
TACOMA DIVISION

NW MONITORING LLC, a Delaware
limited liability company,

Plaintiff,

v.

SUSAN L. HOLLANDER, et al.

Defendants.

No. 3:20-cv-05572-DGE

JOINT RULE 26(f) STATUS REPORT

JOINT STATUS REPORT

Plaintiff NW Monitoring LLC (“Plaintiff”), and Defendants Susan Hollander, 4319 Consulting, Inc., Jeffery Parkinson, and Charlene Wolfe (“Defendants”) by and through their counsel below, hereby submit this Joint Status Report pursuant to Rule 16 and 26(f) of the Federal Rules of Civil Procedure, Rules 16 and 26 of the Local Civil Rules for the Western District of Washington (“Local Civil Rules”), and the Court’s Order dated August 17, 2022 (ECF No. 53).

1. Statement of the Nature and Complexity of Case

Defendants Dr. Susan Hollander and Charlene Wolfe were previously employed by Plaintiff. Dr. Hollander resigned and subsequently was employed by 4319 Consulting, Inc. Dr. Parkinson is the President of 4319 Consulting, Inc. Plaintiff alleges that Defendants misappropriated Plaintiff’s trade secrets, interfered with contracts and business expectancies between Plaintiff and third parties, and

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1 alleged several conspiracy claims. Plaintiff also alleges that Dr. Hollander and Ms. Wolfe breached
 2 contracts with Plaintiff and breached their duty of loyalty. Plaintiff alleges that 4319 Consulting and
 3 Dr. Parkinson interfered with Dr. Hollander's and Ms. Wolfe's contracts. Plaintiff also alleged several
 4 other claims against Defendants which were dismissed through the Court's April 15, 2021 Order (ECF
 5 26). Defendants deny each of the remaining claims asserted against them.
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12 On June 14, 2021, the parties filed a Stipulated Motion to Stay Case Schedule Pending
 13 Mediation (ECF 33) and subsequently filed a Second Stipulated Motion to Stay Case Schedule
 14 Pending Mediation on November 12, 2021 (ECF 35). The parties were unable to reach an agreement
 15 as to how to split costs for the mediation and the mediation did not occur. *See* Defendants' Status
 16 Report (ECF 37) and Joint Status Report (ECF 38). On July 8, 2022, this matter was stayed until
 17 August 8, 2022 to allow for a substitution in Plaintiff's counsel.
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26 **2. Deadline for Joining Additional Parties**

27 The parties do not anticipate joining additional parties.
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31 **3. Magistrate Judge Referral**

32 The parties do not consent to referral to a magistrate judge for dispositive issues.
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36 **4. Discovery Plan**

37 a. The parties conducted a Fed. R. Civ. P. 26(f) conference on May 12, 2022 and August
 38 24, 2022. Defendants provided their initial disclosures to Plaintiff on June 10, 2022. Plaintiff agrees
 39 to provide its initial disclosures **by no later than September 23, 2022.**
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b. Plaintiff will provide responses and any objections to, and complete production of documents in response to, Defendants 4319 Consulting, Inc. and Jeffery Parkinson's May 12, 2022 discovery requests **by no later than September 23, 2022.**¹

c. The parties do not currently anticipate phasing fact discovery. The subjects on which discovery may be needed include all claims and defenses in this matter, as set forth above. This includes discovery regarding (a) Plaintiff's alleged trade secrets; (b) Plaintiff's business relationships with IOM Precision, The Phoenix, The Neuromonitoring Group, Spine-Tek and Neuro Alert; (c) Dr. Hollander's and Ms. Wolfe's employment at NW Monitoring; and (d) Plaintiff's alleged damages.

d. Plaintiffs propose a completion of all discovery by March 10, 2023.

e. Defendants propose a completion of all discovery **by February 16, 2023.**

f. The parties anticipate that discovery will involve the exchange of documents or data with confidential or proprietary information and that they will need a protective order.

g. The parties are not aware of any current privilege issues. The parties will confer on a privilege log process and form. The parties also agree that, pursuant to Federal Rule of Evidence 502(b), the inadvertent disclosure of privileged materials shall not operate as a waiver. The parties will incorporate these provisions into the proposed Protective Order.

h. The parties do not believe limitations on discovery outside of the Federal Rules of Civil Procedure and the Local Civil Rules are necessary.

¹ By agreeing to this date for responses to its discovery requests, Defendants do not intend to waive, and expressly reserve, their right to assert that Plaintiff waived objections to Defendants' discovery requests and/or that Defendants' Requests for Admission should be deemed admitted due to Plaintiff's failure to timely or properly respond.

i. Other than a Protective Order and an ESI Agreement, the parties do not anticipate the need for any other discovery related orders, though all parties reserve their rights to seek discovery related orders.

5. Local Civil Rule 26(f)(1)

a. **Prompt Case Resolution.** The parties have attempted to conduct mediation and were unsuccessful. Each of the Defendants intends to file early summary judgment regarding all claims at issue.

b. **Alternative Dispute Resolution.** The parties have attempted to conduct mediation and were unsuccessful. The parties are willing to revisit mediation as discovery progresses..

c. **Related Cases.** There are presently no related cases.

d. Discovery Management.

i. The parties agree to conduct discovery in accordance with the Federal Rules of Civil Procedure and Local Rules, and incorporate their responses set forth above in Section 4;

ii. The parties will agree to share discovery from third parties and will discuss whether sharing the cost of obtaining that discovery is appropriate;

iii. The parties will agree to schedule discovery or case management conferences as the Court deems useful;

iv. The parties do not believe settlement discussion will be productive at this time;

v. The parties do not request an abbreviated pretrial order;

vi. The parties do not request any other orders under LCR 16(b) or (c) at this time, except as set forth herein.

e. **Anticipated Discovery Sought.** The parties incorporate their response to Section 4(b) above.

f. **Phasing Motions.** The parties incorporate their response to Section 4(b) above.

g. **Preservation of Discoverable Information.** The parties anticipate that a modified version of the Model ESI Agreement will likely be adequate to cover issues relating to the preservation of discoverable information and the scope of the preservation obligation. The parties anticipate that they will submit an ESI Agreement to the Court.

h. **Privilege Issues.** The parties incorporate their response to Section 4(e) above.

i. **Preservation and Production of ESI.** The parties will address preservation and production of ESI in an ESI Agreement to be submitted to the Court.

j. **Alternatives to Model Protocol.** The parties expect to agree to a modified version of the Model ESI Agreement.

6. **Completion of Discovery.**

a. Plaintiff proposes the discovery be completed by March 10, 2023.

b. Defendants propose that discovery be completed by February 16, 2023.

7. **Bifurcation.** The parties agree that this case does not lend itself to bifurcation at this time.

8. **Pretrial Statements.** The parties agree that the Pre-Trial Statements and Orders called for by Local Rules 16(e), (h), (i), and (l), and 16.1 should not be dispensed with in whole or in part.

9. **Individualized Trial Program/ADR.** The parties do not intend to use the Individualized Trial Program set forth in Local Civil Rule 39.2.

1 **10. Suggestions for Shortening or Simplifying the Case.** All Defendants intend to seek early
2 summary judgment in this matter on all claims. The parties will work cooperatively to identify any
3 opportunities to streamline the case.
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8 **11. Trial Ready Date.** The parties agree the case will be trial ready by **July 10, 2023**.
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10 **12. Jury.** The parties request a jury trial.
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12 **13. Trial Days.** The parties estimate that this case will require five full days of court, not including
13 jury selection. The number of trial days required may be fewer if any claims are resolved via motion
14 practice prior to trial.
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18 **14. Trial Counsel Contact Information.**
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20 For NW Monitoring
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22 David P. Horton, 3212 NW Byron Street, Suite 101, Silverdale, WA 98383
23

24 For 4319 Consulting and Dr. Parkinson
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26 David A. Perez and Christian Marcelo, 1201 Third Avenue, Suite 4900, Seattle, WA 98101, (206)
27 359-8000;
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29 For Ms. Wolfe
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31 Gregory M. Rhodes, 1800 Cooper Point RD SW, Bldg. 16, Olympia WA 98507, 360-357-7791;
32

33 For Dr. Hollander
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35 Matthew J. Bean and Cody Fenton-Robertson, 2200 Sixth Avenue, Suite 500, Seattle, WA 98121-
36 1843, 206-522-0618
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38 **15. Trial Counsel Unavailability**
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40 **For Plaintiff**
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42 **May 8-12, 2023**
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1 **June 19-29, 2023**

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3 **August 1-August 31, 2022**

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5 **October 3-19, 2023**

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10 **For 4319 Consulting and Dr. Parkinson:**

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12 June 12, 2023 - June 16, 2023

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14 June 26, 2023 - June 30, 2023

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17 September 11, 2023 - September 14, 2023

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19 **For Ms. Wolfe:**

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21 May 22 – May 31, 2023

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23 June 1 - June 19, 2023

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26 October 30 – November 10, 2023

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28 **Dr. Hollander:**

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30 May 22, 2023 - May 26, 2023

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32 April 24, 2023 - April 28, 2023

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35 **16. Service of Complaint.** All Defendants have been served.

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37 **17. FRCP 16 Conference.** There are no specific circumstances requiring a pretrial Rule 16
38 conference with the Court. Nevertheless, the parties are available for a telephonic conference if the
39 Court believes a Rule 16 conference would be beneficial prior to setting a schedule for this case. The
40 parties reserve the right to request a Rule 16 conference if and when the need arises.
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47 **18. FRCP 7.1 Disclosures.** Plaintiff filed its Rule 7.1 disclosure on June 26, 2020. 4319 filed its
48 Rule 7.1 disclosure on May 20, 2021.
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1
2 DATED August 31, 2022.

YOUNGLOVE & COKER, P.L.L.C.

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4
5 s/ Gregory M. Rhodes

6 GREGORY M. RHODES, WSBA #33897

7 Attorney for Defendant Wolfe

8
9 DATED August 31, 2022.

PERKINS COIE, LLP

10
11 s/ Christian W. Marcelo

12 CHRISTIAN W. MARCELO, WSBA #51193

13 DAVID A. PEREZ, WSBA #43959

14 Attorneys for Defendants Parkinson and 4319
15 Consulting, Inc.
16

17
18 DATED August 31, 2022.

BEAN LAW GROUP

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20 s/ Cody Fenton-Robertson

21 CODY FENTON-ROBERTSON, WSBA #47879

22 MATTHEW J. BEAN, WSBA #23221

23 Attorneys for Defendants Hollander, M.D.
24

25
26 DATED August 31, 2022.

KITSAP LAW GROUP

27
28 s/ David P. Horton

29 DAVID P. HORTON, WSBA #27123

30 Attorney for Plaintiff NW Monitoring LLC
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CERTIFICATE OF SERVICE

I certify under penalty of perjury that on August 31, 2022, I caused to be electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the attorneys of record:

<p>David P. Horton, WSBA #27123 dhorton@kitsaplawgroup.com KITSAP LAW GROUP 3212 NW Byron Street, Suite 101 Silverdale, WA 98383 Phone: 360-692-6415 Fax: 360-692-1257</p> <p>Attorneys for Plaintiff NW Monitoring LLC</p>	<p><input type="checkbox"/> U.S. Mail <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> E-File <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Delivery</p>
<p>Cody Fenton-Robertson, WSBA #47879 cody@beanlawgroup.com Matthew J. Bean, WSBA #23221 matt@beanlawgroup.com Bean Law Group 2200 Sixth Avenue, Suite 500 Seattle, WA 98121-1843 Phone: 206-522-0618 Fax: 206-524-3751</p> <p>Attorneys for Defendant Susan L. Hollander</p>	<p><input type="checkbox"/> U.S. Mail <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> E-File <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Delivery</p>
<p>Gregory M. Rhodes, WSBA #33897 grhodes@ylclaw.com Younglove & Coker 1800 Cooper PT RD SW, Suite 16 Olympia, WA 98507 Phone: 360-357-7791 Fax: 360 754-9268</p> <p>Attorney for Defendant</p>	<p><input type="checkbox"/> U.S. Mail <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> E-File <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Delivery</p>

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1 Charlene Wolfe
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17 DATED this 31 day of August, 2022.
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20 s/ Christian W. Marcelo

21 Christian W. Marcelo, WSBA No. 51193

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30 Attorney for Defendants

31 JEFFERY PARKINSON and his

32 COMMUNITY PROPERTY, and 4319

33 CONSULTING, INC.
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